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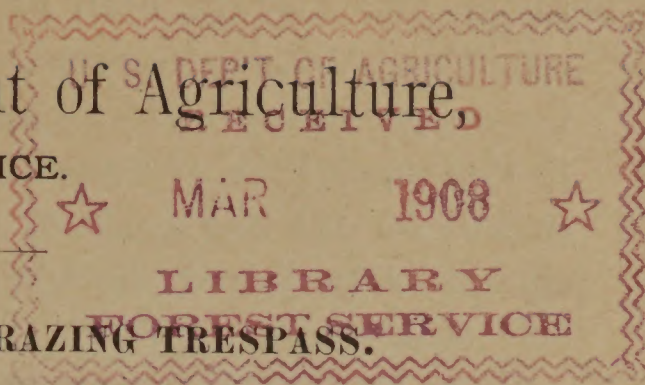
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Instructions Regarding Grazing Trespass

U. S. Department of Agriculture
Forest Service

United States Department of Agriculture,

FOREST SERVICE.



INSTRUCTIONS REGARDING GRAZING TRESPASS.

WASHINGTON, D. C., *January 15, 1908.*

TO FOREST OFFICERS:

In future cases of grazing trespass upon the National Forests you will please proceed in accordance with the following instructions:

IN CIVIL CASES.

The Forest officer upon discovering a grazing trespass should take immediate steps to protect the Forest from injury. The owner of the stock should be ordered to remove it at once, or, if the situation is urgent, the Forest officer may remove the stock in any reasonable way that does not injure it physically.

A distinction should be made between (a) unpermitted stock and (b) permitted stock.

(a) Forest officers may drive unpermitted stock from any portion of the Forest upon discovery of its presence, or they may allow the owner or herder a reasonable time to remove it; but if he refuses to go, the person in charge of the stock may be arrested and the stock removed from the Forest. (See procedure in criminal cases.)

(b) Permitted stock may be removed from any portion of the Forest not allotted to it, but the permit can not be canceled or the stock removed from the area allotted to it without authority from the Forester.

The Forest officer who discovers trespassing stock should, as soon as possible, prepare a report in duplicate on Form 856, to be submitted to the supervisor. This report should contain clear-cut, definite statements upon the following points: Date of trespass; actual or approximate number of stock grazed in trespass and method of determination; brands or earmarks of stock and recorded ownership of same; location of area trespassed upon by legal subdivisions or a definite description by local landmarks; whether Forest boundaries were properly marked at point of trespass or not and whether trespasser has ever been advised of the exact location of the Forest boundary; the names and addresses of all witnesses having knowledge of the facts, together with a brief synopsis of their testimony. All questions contained in the printed form should be answered.

This data should be complete, even though insert sheets must be used in the report. The Forest officer should then add his own recommendation relative to the terms and methods of settlement and action to be

taken, and forward both copies of the report to the supervisor. No report of a grazing trespass should be forwarded to the Forester until the trespasser has had an opportunity to present his version of the facts to the supervisor. Propositions of settlement should not be prepared in full for the signature of the trespasser, but instead the trespasser should be furnished the blank form upon which he may set forth his side of the case.

Upon receipt of the report the supervisor will consider it carefully, and, if he thinks a good case has been presented against the trespasser, he will advise him by letter of the nature of the report, informing him that he will be allowed ten days from the receipt of the letter in which to state his version of the facts. After such statement has been made, or in case the alleged trespasser ignores the notice, after the ten days or a reasonable time has expired, the supervisor, if in his opinion a trespass has been committed, will determine the amount of injury which the Forest has sustained. If the trespass is innocent or unintentional, the trespasser should be charged only the value of the grass and forage consumed or the herbage destroyed, based upon the regular grazing fee upon the number of head of stock involved; but in cases in which the trespass is willful the compensation due the Government should be much greater because of the effect of such a trespass. In cases of willful trespass the sum of \$50 per band and upward in any case of sheep trespass or \$10 and upward in any case of cattle or horse trespass is reasonable.

After having determined the compensation due to the Government in settlement of the trespass, a proposition of settlement (Form 208) should be presented to the trespasser, to be filled in and signed by him and forwarded to the Forester. A letter of transmittal (Form 861) should also be presented to him and a duplicate sent to the Forester. A report of the action taken in all cases, with definite recommendations, should be made to the Forester at once. A card record should be prepared, and a properly marked folder containing the duplicate report and all other papers in the case should be placed in the files.

IN CRIMINAL CASES.

The Secretary of Agriculture has no power to dismiss criminal cases; and a proposition of settlement submitted with the understanding that, if accepted, criminal proceedings for the trespass will be waived, will be rejected (Use Book, p. 118). No proceeding looking to criminal prosecution should be taken or threatened by any Forest officer without authority from the Forester or Law Officer, except as provided under this head in cases where immediate arrest is necessary. Under ordinary circumstances settlement should be required as provided in civil cases, and criminal action recommended only in cases in which settlement is impossible.

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In cases where immediate action is necessary in order to protect the Forest from damage, or in any clear case where the trespasser is liable to escape if not arrested at once (Use Book, p. 121), the ranger will place the trespasser under arrest if he is detected in the act of committing a trespass; will notify the supervisor at once, advising him of the need for immediate action, the evidence against the trespasser, and the United States Commissioner before whom the hearing will be held. He will also secure evidence upon all of the points mentioned under the head of civil cases. He will immediately take the prisoner before the proper Commissioner, swear to a complaint, represent the Forest Service at the hearing, and hold the prisoner for disposition according to the instructions of the Commissioner. After the case has been acted upon by the Commissioner the ranger will submit full reports upon the proper forms, as in a civil case, to the supervisor, including a statement regarding the urgency of the need for the arrest, and the decision and rulings of the Commissioner.

The supervisor upon receipt of the ranger's preliminary report should endeavor to attend the hearing before the Commissioner as a representative of the Forest Service or, failing in that, should give the ranger full instructions relating to the management of the case, approving or disapproving the ranger's action in making the arrest, as necessary. As soon as the case before the Commissioner has been decided and the ranger has submitted full reports upon the proper forms, the supervisor should consider them, approve them, record them in the proper manner, and forward all papers in the case to the Forester for action, adding such recommendations as are necessary, and stating in full all rulings and decisions made by the Commissioner, after which he should await instructions from the Law Officer before proceeding further.

GIFFORD PINCHOT,
Forester.

